

Museum of Children's Art (MOCHA)

Governance Policies



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Mocha Big Studio | 538 Ninth Street, Oakland

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INTRODUCTION

This document is a supplement to the Bylaws of the **Museum of Children’s Art (MOCHA)**. Its purpose is to provide more detailed guidelines for the Board’s implementation of the Bylaws and to attach values to the governing documents.

A. The Role of the Board

Members of the Board serve as trustees of the organization on behalf of its membership. The Board is responsible for the organization including:

- MOCHA operations and performance
- Setting the future direction of MOCHA, consistent with its mission
- The fiscal health of MOCHA
- Assuring that MOCHA has the necessary resources to accomplish its mission
- Hire and monitor the performance of the Executive Director
- Protect and promote MOCHA’s reputation with external stakeholders and in the community

B. Director Responsibilities & Code of Conduct

1. Director Responsibilities

MOCHA’s Directors play a central role in helping the organization achieve its vision and mission. To this end, each Director makes a commitment to participate actively in MOCHA’s work, support MOCHA’s policies, and share their professional expertise. To fulfill their responsibilities, Directors will:

- Support MOCHA’s mission;
- Keep abreast of major issues that affect MOCHA’s mission;
- Attend and actively participate in Board and committee meetings, Board retreats, and MOCHA events; serve on at least one Board committee and act as a liaison to an MOCHA committee when requested by the Board Chair or Executive Director;
- Review the IRS Form 990 Informational Return;
- Notify the Board Chair or Executive Director’s office when unable to attend a meeting;
- Actively participate in MOCHA’s fundraising activities;
- Cover their own expenses in connection with participating on the Board. If such expenses cause a financial burden, Directors should contact the Board Chair;
- Avoid any conflict of interest with respect to their fiduciary responsibility and complete an annual conflict of interest disclosure for this purpose per Section C;
- Maintain honest and open working relationships with staff and use appropriate channels for formal feedback related to staff performance;
- Respect the confidentiality appropriate to issues of a sensitive nature;

- Serve as an ambassador in the community for MOCHA’s mission and programs, promoting the benefits of MOCHA’s work;
- Refer questions of a sensitive nature to the Board Chair or Executive Director unless this is superseded by an agreed-upon communications plan;
- If necessary, request a leave of absence in writing to the Chair. The Chair is charged with the responsibility of authorizing leaves of absence

2. Code of Conduct

MOCHA’s directors and officers are required to comply with all applicable laws and regulations.

They must observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As representatives of the organization, they must practice honesty and integrity in their work on behalf of the organization.

MOCHA’s directors and officers have a duty of loyalty to act in the interest of the organization rather than in the interest of themselves or any other individuals or organizations.

No Director shall derive any personal profit or gain, directly or indirectly, due to his/her service to MOCHA. There may be no self-dealing or any conduct of personal or business services between any Director and MOCHA except those conducted in an open and objective manner to ensure equal competitive opportunity and equal access to information, as per the Conflict of Interest Policy detailed in Section C.

Directors shall sign a statement upon election, acknowledging their understanding of MOCHA’s Code of Conduct and Conflict of Interest Policies, and their agreement to abide by these policies. Statements from newly elected Directors will be given to the Executive Director and kept on file with the organization’s official Board records.

Violations or suspected violations of MOCHA’s procedures and policies and applicable laws shall be filed in writing, in compliance with the organization’s Whistleblower Policy (Section F).

C. Conflict of Interest Policy

Directors shall disclose potential conflicts of interest stemming from their business, employment, or vocational activities, when such activities might present a real or perceived conflict of interest for that Director in conjunction with his/her role as a trustee overseeing MOCHA operations, including its grant-making. Potential conflicts of interest should be disclosed in relation to potential grantees and applicants, or when MOCHA is considering entering a financial arrangement with a non-profit or for-profit entity.

MOCHA encourages its Directors to be involved in the community and does not prohibit activity such as serving on applicants’ or grantees’ boards, volunteering, or making individual charitable contributions. Conflicts of interest or the appearance of such conflicts exist when a MOCHA Director, a member of his/her immediate family, or a domestic or business partner:

- Serves as a trustee, officer, or employee of an affected organization or firm;
- Has a formal affiliation or interest in an affected organization or firm, including volunteering regularly, serving on a committee, receiving compensation, or receiving services;
- Holds more than 10% of stock in an affected organization or firm;

- Could expect financial gain or loss from a particular decision.

Transactions involving parties with whom a potential conflict of interest exists may be undertaken under normal circumstances if:

- The potentially conflicting role is fully disclosed in the Director's filed Conflict of Interest Statement and at any Board or committee meeting where the transaction is discussed;
- The person with the potential conflict of interest is not present during discussion and does not vote on the authorization of a financial transaction;
- The Board as a whole has determined that the transaction is in the best interests of MOCHA;
- In the case of fees to be paid, a competitive bid or comparable valuation is also considered by the Board.

Directors shall sign a statement upon election and annually thereafter acknowledging their understanding of MOCHA's Conflict of Interest Policy and their agreement to abide by the policy, including notifying the Board Chair and Executive Director orally and in writing of any Conflicts of Interest as they arise. Disclosures will be reported to the full Board of Directors and reflected in meeting minutes. Directors with conflicts of interest will leave the room prior to the discussion of affected items. Statements will be given to the Executive Director and kept on file with the organization's official Board records.

D. Structure of the Board

1. Nomination and Election of Directors

Nominations for the Board of Directors must be made no less than 60 days prior to the Annual Meeting. Nominations are considered by the Executive Committee or an Ad Hoc Committee as designated by the Executive Committee, which makes its recommendations to the Board of Directors no less than 30 days prior to the Annual Meeting. The Board of Directors approves the slate of candidates for election by the members to the Board at the Annual Meeting, subject to the requirements of the Bylaws. When considering candidates, the Board shall strive to reflect the diversity that exists within its membership and the communities it serves.

2. Terms of Directors

a. Terms of Service

Directors are elected to a three-year term. No director may serve more than three consecutive terms. However, the Board of Directors may, at its discretion, authorize a director to serve an additional consecutive term.

If a Director's affiliation (as staff or trustee of an MOCHA member) changes while he or she is serving on the Board and the member wishes to continue service, he or she shall be allowed to serve out the year until the next election, as long as no conflict of interest exists.

If the Director still has time remaining left in his or her term when the next election occurs, he or she will be allowed to complete that term if the Executive Committee determines:

1. The member retains some connection with the philanthropic field; and

2. The member's continued service will serve the needs of MOCHA and the MOCHA Board; and
3. No conflict of interest or potential conflict of interest exists.

Directors whose affiliations have changed or may change are encouraged to discuss their Board status with the MOCHA Board Chair.

b. Resignation & Removal

Per MOCHA's Bylaws (3.03), any Director may resign at any time through written notice to the Board of Directors. The Board may also request the removal by resignation of a Director at any time through the process articulated in the Bylaws (3.04). Two unexcused absences within a year from a standing meeting of the entire board may serve as cause for removal.

3. Officers

The Board conducts itself under the leadership of a Chair. Officer positions include:

- Chair (President)
- Vice Chair (Vice President)
- Treasurer (Chief Financial Officer)
- Secretary

a. Nomination and Election of Officers

Candidates for officer positions shall be nominated at least thirty days prior to the Annual Members Meeting. Officers are normally elected annually at the last meeting of the Board of Directors of a given fiscal year.

Officers are elected for one-year terms. In general, a two-year commitment is expected. The longest an officer may serve in the same role is six years or two full board terms of service.

b. Role of Chair

The Chair of the Board assures the integrity of the Board's process and represents the Board to outside parties. The Chair and Executive Director are the primary spokespeople for the organization. In addition, the role of the Chair is to ensure that the Board conducts itself according to its Bylaws and Governance Policies. The Chair is responsible for the following, in addition to the responsibilities outlined in MOCHA's Bylaws (4.04):

- Planning and conducting meetings of the Board;
- Assuring that Board deliberation is fair, open, and thorough;
- Chairing the Executive Committee and serving as an ex-officio member of all other Board committees;
- Facilitating Board meetings with the commonly accepted power of that position;
- Collaborating with, and advising, the Executive Director on organizational and governance matters;

- Representing the Board to outside parties, announcing Board-stated positions, and stating Chair decisions and interpretations within the areas delegated to him or her. The Chair may delegate this authority but remains accountable for its use;
- Appointing committee chairs in accordance with the Bylaws and Governance Policies;
- Granting Directors leaves of absence.

c. Role of Treasurer

The Treasurer must monitor all of MOCHA's finances and financial commitments on an ongoing basis. His/her responsibilities include the following, in addition to those outline in MOCHA's Bylaws (4.07):

- Review the IRS Form 990 Informational Return;
- Review, recommend to the Board, and monitor MOCHA's annual budget;
- Review and report to the board on the organization's annual audit
- Periodic review and oversight of MOCHA's investment policy (see Item II.E.).

4. Board Committees

Board committees exist to assist the Board. With the exception of the Executive Committee, Board committees may speak or act for the Board only when formally given such authority.

A Board committee derives its charge from the full Board. Board committee meetings are open to all Directors.

The Executive Director (or his/her designated staff member) shall be an ex-officio member of all committees. Board committees are described on the following pages.

a. Executive Committee

Responsibilities:

- Take actions on behalf of the Board of Directors between meetings as authorized by the Board. All actions shall be reported to the full Board at or before the next Board meeting;
- Establish compensation and benefits for the Executive Director that includes review of salary and compensation data for similarly qualified persons in comparable positions at similarly situated organizations. The program shall be reviewed and approved by the Board and documented in the Executive Director's personnel file;
- Prepare the Executive Director's performance evaluation for review by the Board and recommend any changes to Executive Director's compensation and benefits to the Board. At a minimum, Executive Director shall be evaluated annually;
- Review, monitor, and recommend changes in organizational policies;
- Develop the Board meeting agendas in consultation with the Executive Director;
- Nominate new Directors or establish a separate committee to do so;
- Create, merge, or disband Board committees;
- Monitor the activities of all Board committees.

Authority: Make recommendations and report to the Board on responsibilities listed above.

Committee Size and Selection: The committee will be comprised of all Board officers, the Executive Director as a non-voting member, and committee chairs or other Board Members at the Board Chair's discretion.

Committee Chair: Board Chair

b. Ad Hoc Committees

Ad Hoc committees may be formed from time to time as the Board deems necessary, with responsibilities and authority determined by the Board. Size of the committee and selection of its members are at the discretion of the Board Chair in consultation with the committee chair.

Authority: Recommends and reports to the Board on responsibilities listed above.

Committee Size and Selection: Size of the committee and selection of its members are at the discretion of the Board Chair in consultation with the committee chair. MOCHA members may be selected to serve on these committees.

Committee Chair: To be selected by the Board Chair

E. Investment Policy

Investment Objectives

The investment objectives of unrestricted and temporarily restricted reserve funds are as follows:

1. Preserve the value and safety of the principal;
2. Maintain liquidity appropriate for the forecasted cash needs of the organization;
3. Maximize the rate of return on investments consistent with the goals of safety and liquidity.

Responsibilities

The Executive Director and Director of Operations are authorized to invest or to direct reserve funds. The Director of Operations is responsible for ensuring the completion of all paperwork and transactions pertinent to the execution and confirmation of buy/sell orders, the instructing of money market dealers with respect to arrangements for payment or collection of monies resulting from the purchase, sale, or redemption of securities; and the maintenance of all necessary records of current holdings.

The Executive Director will make a written report to the Treasurer every two months on the status of the portfolio. Formal documentation will be delivered to each bank, broker, or dealer consisting of signed repurchase agreement, corporate resolutions, authorized list of approved investments, and authorized signature list. The Executive Director is responsible for regularly, at least annually, reviewing this policy and recommending changes to the Treasurer and subsequent approval by the Board. In the event invested balances exceed \$5 million, the Treasurer will review these policies and procedures to confirm their appropriateness.

Approved Investments

The following are approved investment vehicles:

1. Federally-insured Certificates of Deposit not to exceed \$100,000 including interest at commercial banks and savings and loan institutions;
2. Money Market Funds that invest in government-backed securities;
3. Direct Obligations of the U.S. Government, its Agencies and instrumentalities;
4. United States Government Agency Discount Notes;
5. Repurchase agreements with financial institutions for the purchase of government-backed or agency obligations of the United States Government, where physical delivery of the collateral is made to a third party;
6. Bankers Acceptance.

Constraints

- **Diversification** – No more than 50% of the portfolio may be invested in one investment type described above with the exception of the United States Treasury Securities. No more than 50% of the portfolio should be exposed to credit risk from the same issuer or guarantor.
- **Credit Quality** – In addition to a quarterly review of the ratings given to all securities held in the portfolio, quarterly financial statements must be obtained and reviewed from banks and commercial paper issuers.
- **Maturity** – No security may be used that has a maturity date more than five years from the purchase date. No more than 25% of the portfolio may held in securities with a maturity date of more than one year. At least 15% of the portfolio should be convertible into cash within three business days without loss of principal. The remainder should be convertible into cash within 180 days without loss of principal.
- **External Investment Advisors** – External Investment Advisors can be used if the services to be provided are specified in a written agreement signed by the President/Executive Director.
- **Foreign Currency** – All investments will be denominated in United States dollars.
- **Safekeeping** – Securities purchased by MOCHA should be delivered against payment and held in a custodian account. Securities used for collateral for repurchase agreements with maturities of less than seven days or less are exempt from this requirement.

F. Whistleblower Policy

This policy is intended to encourage directors, officers, and employees to raise serious concerns within the organization, without penalty, prior to attempting to seek resolution outside the organization.

A concern or complaint shall be made in writing to the Board Chair, with a copy going to the Executive Director.

Anyone filing a complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the disclosed information indicates a violation.

Any allegations that prove not to be substantiated or made falsely will be viewed as a serious disciplinary offense.

No director, officer, employee, agent, or contractor who in good faith reports a violation of MOCHA policies and procedures, or of applicable law, shall suffer harassment, retaliation, or adverse employment consequences for making such a report.

Violations or suspected violations may be submitted on a confidential basis. Such filings will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

If the Board Chair thinks the issue requires attention that cannot be readily resolved with direct communication and immediate internal action, he/she must work with the Executive Committee to resolve the matter.

It is the Board Chair's obligation to convene all appropriate Board committees, to work with those committees until the matter is resolved, and to inform the full Board of any actions taken or any recommendations that need Board approval. Any such Board actions shall be noted in the meeting's minutes and filed with the organization's Board Meeting Minutes archive.

G. Document Retention and Destruction Policy

Documents created by MOCHA or provided to it by others are the sole property of the organization. No employee or Director who creates or has access to a document in relation to the MOCHA's work may be considered to own such property. Upon termination of employment or Board service, all of MOCHA's documents in that person's possession (including emails and hard copies) shall be considered to be the sole property of MOCHA and cannot be used further by the individual without express permission from the Executive Director.

Permanent records must be stored in MOCHA's business office, or in an established storage facility with clearly labeled and easily accessible documentation stored with the main business records in MOCHA's office. Both the Executive Director and Board Chair shall have written authorization to retrieve such records if kept in an off-site storage facility. Any Director may request access to any of MOCHA's permanent records at any time, giving reasonable notice to the staff to make such records available at MOCHA's office or to make copies to send via regular or electronic mail.

MOCHA staff is charged with establishing a regular schedule for backing up important electronic files, for organizing them in a clearly labeled and accessible way on MOCHA's computers, and for making hard copies of important documents for paper file records.

Specific Guidelines for Retention of MOCHA Records (Starting January 1, 2011)

Type:	Duration:
Incorporation Papers	Forever
Bylaws	Forever
IRS & State Tax Exemption Rulings	Forever
Personnel Policies	Forever
Legal Documents	Forever
Board Meeting Minutes	Forever
Board Terms History	Forever
Bound Board Dockets	Forever
Outside Audits	Forever

Type:	Duration:
Historical Documents <i>(written or oral history of MOCHA, press clippings, major publications released by MOCHA)</i>	Forever
Contracts Executed	10 years
Insurance Policies	10 years
Tax Returns	10 years
Accounts Payable/Receivable Ledgers	7 years
Bank and Investment Statements	7 years
Bank Account Reconciliations	1 year
Cancelled Checks or Copies & Deposit Slips	3 years
Personnel Employment Records	7 years
Grants Awarded Files	7 years
Grants Declined Files	1 year

Suspension of Record Destruction in the Event of a Claim, Lawsuit, Government Investigation, Subpoena, Summons or Other Ongoing Matters

Upon services of legal process (subpoena, summons, or the like) or upon learning of an investigation or audit or if a claim is made, whether formal or informal, or a dispute arises, the records retention schedules referenced above shall be suspended and records related to the legal process, claim, dispute, investigation, or audit should not be destroyed.

Specific Guidelines for Destruction of MOCHA Records

MOCHA will employ safeguards against the unauthorized or accidental disclosure of confidential records and information no longer stored according to MOCHA's retention policy. Further MOCHA will take reasonable care in the disposal of confidential information, including its protection during storage, transportation, handling, and destruction.

- **Paper records** containing confidential information should be shredded and/or pulped, not simply thrown out with other classes of records or with miscellaneous trash. It is recommended that confidential destruction services, including shredding and pulping, be arranged through MOCHA administration.
- **Electronic or machine-readable records** containing confidential information require a two-step process for assured, confidential destruction. Deletion of the contents of digital files and emptying of the desktop "trash" or "waste basket" is the first step. It must be kept in mind, however, that reconstruction and restoration of "deleted" files are quite possible in the hands of computer specialists. With regard to records stored on a "**hard drive**," it is recommended that commercially available software applications be utilized to remove all data from the storage device. When properly applied, these tools prevent the reconstruction of any data formerly stored on the hard drive. With regard to **floppy disks** and **back-up tapes**, it is recommended that these storage devices be physically destroyed. These recommended methods of confidential destruction shall be arranged through MOCHA administration.

H. Public Document Disclosure Policy

This Policy sets out the practices of MOCHA regarding disclosure of information held by it and describes the extent and nature of those materials that MOCHA will make available to the public. As an organization devoted to serving the needs of the region's grant-makers, MOCHA believes that information held by it should be as open to public review as possible, while still respecting the privacy rights of members, prospective members, and employees, and without compromising the MOCHA's ability to conduct its core activities.

Document Categories

For purposes of disclosure, MOCHA materials fall into one of three general categories.

1. The first category consists of information that MOCHA is obligated to disclose pursuant to state or federal law and includes but is not limited to the Foundation's IRS Form 990 as well as documents filed with California's Secretary of State. These records are available either on MOCHA's web site (www.mocha.org) or directly through MOCHA. In addition to making these documents available to the public, MOCHA is also committed to providing assistance in making the documents more understandable, as discussed in Part 6 of this Policy.
2. The second category consists of information that MOCHA voluntarily discloses pursuant to its desire to make available for public review information not withheld for a specific, clear, and necessary reason. This category of information comprises the majority of information within MOCHA's control and includes a variety of documents from annual audited financial statements to descriptions of fundraising priorities. MOCHA's practice is to make available for public review as much information as possible without compromising the MOCHA's mission.
3. The third category consists of information that MOCHA does not disclose for specific, clear, and necessary reasons. MOCHA does not disclose strategic and competitive business information. Disclosure of such information would compromise MOCHA's position in a competitive association environment. MOCHA also does not disclose private information such as trust documents, members' or prospective members' personal and financial records and gift agreements, or employee personnel records.

Information from MOCHA may be available through multiple sources, such as the web site (www.mocha.org), or by contacting MOCHA.

Category 1: Legally Obligatory Information

This category of information includes documents created, obtained, or maintained in conjunction with the Foundation's obligatory filings with the Internal Revenue Service and other federal and state agencies. These include:

- MOCHA's Annual Information Return (IRS Form 990);
- MOCHA's Request for Tax-Exempt Status (IRS Form 1023);
- MOCHA's Articles of Incorporation and Annual Report.

Category 2: Voluntarily Disclosed Information

a. Administrative Information

Most information concerning the internal structure and workings of MOCHA is voluntarily made public. This information includes:

- MOCHA’s Bylaws;
- IRS Forms 990 beyond the current and prior 2 years;
- Information regarding MOCHA’s Board of Directors;
- Organizational Chart;
- Information regarding MOCHA’s Staff;
- Conflict of Interest Policy.

b. Financial Information

The following financial information is voluntarily made public. This information includes:

- MOCHA’s Audited Financial Statements for up to the previous 3 fiscal years;
- MOCHA’s Annual Reports including financials.

c. MOCHA Investment Information

MOCHA may invest funds in a variety of instruments. It is MOCHA’s policy to promptly and openly respond to all requests for information regarding MOCHA’s investment policies.

Information is available from MOCHA Member Services including::

- MOCHA’s Investment Policy;
- Summaries of MOCHA Investments.

d. Grant-making Information, including:

- Lists of grants to others with grantee organization contact information, amount granted, and purpose.

Category 3: Private Information

a. Private Information

MOCHA does not disclose private information about members. For purposes of the Policy, “private information” is information of a personal and sensitive nature that is not generally available from third-party sources and that, if disclosed, would violate legal or ethical obligations of MOCHA or its representatives. Further, to the extent MOCHA obtains or maintains personal financial information on individuals or entities, this information is not disclosed.

b. Personal Information Regarding Employees

MOCHA maintains appropriate and in many cases legally mandated safeguards to respect the personal privacy of employees and the confidentiality of personal information about them. Thus, individual staff record and personal medical information, as well as proceedings of internal appeal mechanisms, are not disclosed.